

memorandum

DATE: January 30, 2001
REPLY TO:
ATTN OF: Office of Environmental Policy and Guidance:Koss:6-7964
SUBJECT: Further Update and Corrections to the Final Hazardous Waste Combustor Rule
TO: Distribution

The Office of Environmental Policy and Guidance (EH-41) issued a memorandum on September 15, 2000, which provided an update on regulatory and legal developments related to air emission requirements for hazardous and mixed waste incineration units. These requirements may also apply to other Department of Energy (DOE) thermal treatment facilities and privately-owned facilities built to treat DOE waste. The memorandum can be accessed at:

<http://www.eh.doe.gov/oepa/guidance/caa/combustorupdate.pdf>. The memorandum noted that the Environmental Protection Agency (EPA) had issued two technical correction rules to the Phase I hazardous waste combustor (HWC) rulemaking. The first was issued November 19, 1999, (64 *FR* 63209). The second was issued July 10, 2000, (65 *FR* 42292). A third technical correction rule was subsequently issued November 9, 2000, (65 *FR* 67268). The attachment to this memorandum provides a summary of the three technical correction rules.

A further update to the September 15 memorandum is that on September 20, 2000, (65 *FR* 56798) EPA announced the availability of a web-based toolkit to provide implementation guidance and other general and process-oriented information related to the National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors rules in 40 *CFR* 63 Subpart EEE. The toolkit and other EPA electronic documents related to the standards can be accessed at:

<http://www.epa.gov/epaoswer/hazwaste/combust.htm>.

Questions concerning the HWC rule and these corrections should be directed to Ted Koss of my staff (theodore.koss@eh.doe.gov; 202-586-7964), or to Beverly Whitehead of the RCRA/CERCLA Division (EH-413) (beverly.whitehead@eh.doe.gov; 202-586-6073).

(original signed by Andrew Wallo III)

Andrew Wallo III
Director
Air, Water and Radiation Division

Attachment

**Update and Corrections to the Final Hazardous Waste Combustor (HWC)
Rule (40 *CFR* Part 63, Subpart EEE)**

November 19, 1999 Technical Corrections

The 11/19/99 corrections to the Phase I HWC rulemaking made changes to the requirements for the Notification of Intent to Comply (NIC) and progress reports. The NIC change clarifies that only those elements set out in 40 *CFR* 63.1210(b)(1)(ii) which actually apply to a particular source must be addressed by the source in its NIC. The progress report change clarifies 40 *CFR* 63.1211(b)(1) to provide that sources can make equipment upgrades themselves and do not need to contract with third parties for such upgrades.

The 11/19/99 correction also amended a change made by the September 30, 1999, Subpart EEE Phase I Part II final rule to the regulation of residues (40 *CFR* 266.112) for hazardous waste burned in boilers and industrial furnaces. Specifically, the 11/19/99 correction added a note to the Appendix VII table to 40 *CFR* 266 stating that residues do not have to be analyzed for those compounds that do not have an established F039 nonwastewater concentration limit.

July 10, 2000 Technical Corrections

The 7/10/00 corrections were more extensive than the 11/19/99 technical corrections. They corrected numerous typographical errors and added clarifying language to the Phase I HWC rule. The bullets below highlight the significant corrections to the 9/30/99 Phase I Part II HWC rule:

- The unit for particulate matter concentration is changed from mg/unit volume to mg/dry standard cubic meter (dscm) in 40 *CFR* 60 Appendix A, Method 5i, Section 12.2.
- Table 1 to 40 *CFR* 63.1200 is modified to state that sources that have initiated closure requirements under 40 *CFR* 264/265 Subpart G are exempt from the Subpart EEE HWC emission standards.
- Regulatory language is revised to clarify that sources must continuously monitor and comply with the emission standard for either carbon monoxide or hydrocarbons.
- References in 40 *CFR* 63.1203, 63.1204, and 63.1205 to requirements in 40 *CFR* 264 Subparts BB and CC covering emission standards for equipment leaks, tanks, surface impoundments, and containers are deleted because the Part 264 requirements are separately applicable.

- 40 *CFR* 63.1206(b)(5)(i)(C)(1) and 63.1207(h)(2) are modified to allow 720 hours of operations after a failed emissions monitoring test for purposes of pretesting and performance testing. The 720 hours is renewable at EPA's discretion.
- 40 *CFR* 63.1209 is amended to provide that the feedrate limits for mercury, semi-volatile metals, low-volatile metals, and hydrochloric acid/chlorine gas are to be determined from the average of the test run averages during the comprehensive performance test.
- References in the table at 40 *CFR* 63.1211 summarizing recordkeeping requirements are corrected.
- The definition of "rolling average" in Subpart EEE Appendix A is amended by deleting the sentence on continuous emissions monitoring systems (CEMs) other than carbon monoxide and total hydrocarbons.
- 40 *CFR* 63.1207(f)(1) is amended to include all information that must be included in the comprehensive performance test plan.
- The definition of a "responsible official" in 40 *CFR* 63.1212(a)(2) is revised to conform to the definition of this term in the Clean Air Act implementing regulations at 40 *CFR* 63.2.
- Various incorrect citations are corrected.

The following bullets highlight the significant clarifications to the 9/30/99 Phase I Part II rule that do not involve changes to the actual Subpart EEE rules:

- The Emergency Safety Vent Operating Plan is to be kept in the operating record for a facility, but does not need to be submitted to the permitting agency.
- The language in 40 *CFR* 63.1209(o)(3)(iv) that requires owner/operators of combustion facilities using wet scrubbers to control hydrochloric acid and chlorine gas to establish a limit on the minimum pH on an hourly rolling average basis is correct, and contrary language in the preamble to the rule referring to a dual ten minute and hourly rolling average should be disregarded.
- The language in the rule allowing the use of methods 261, 320, or 321 for compliance with the hydrochloric acid and chlorine standards is correct, and contrary language in the preamble that Method 26A in 40 *CFR* 60 Appendix A must be used should be disregarded.

- The language in 40 *CFR* 63.1206(c)(5) regarding control of combustion system leaks is correct, and contrary language in EPA's comment response document that it would be appropriate for a source to use a one-minute averaging period to comply with one of the system leak control options should be disregarded.
- Owner/operators of sources subject to Subpart EEE need to have a Title V operating permit for their facility [40 *CFR* 63.1200 (a)(2)]. However, owner/operators that already have a Title V operating permit for other regulated activities at a facility/site do not have to apply for a new Title V permit for the hazardous waste burning activities regulated by Subpart EEE.
- The operator training and certification requirements at 40 *CFR* 63.1206(c)(6) do not require that all personnel at a facility need to pass a technical training and certification program equivalent to the American Society of Mechanical Engineers (ASME) QHO-1 program. Control room operators and shift supervisors are expected to have training and certification at a technical level similar to ASME QHO-1. Other personnel whose activities may affect emissions should successfully complete a training program commensurate with their work scope and responsibilities. Personnel whose activities are not expected to directly affect emissions of hazardous air pollutants, *e.g.*, administrative staff, are exempted from the operator training and certification requirements. Note that for sources that intend to comply with the Subpart EEE standards and continue operating after September 30, 2002, the training must be completed before the September 30, 2002, compliance deadline.
- A relative standard deviation criterion in 40 *CFR* 60 Appendix A, Method 5i, Section 12.2b is purposely not specified for situations where the mean emissions are less than 1 mg/dscm. All average results less than 1 mg/dscm are acceptable regardless of the relative standard deviation.

One change in the 7/10/00 technical corrections was made to the 11/19/99 correction rule. The words "do not" are reinstated before "intend" in 40 *CFR* 63.1210(b)(1)(iv).

One change was also made to the 6/19/98 HWC Phase I Part I final rule involving comparable fuels and syngas fuels. The 6/19/98 rule excluded from the definition of solid waste any liquid or gaseous hazardous waste derived fuel meeting certain technical specifications and allowed it to be burned in certain combustion sources. The change amends 40 *CFR* 261.38(c)(ii)(2) to allow such fuel to be burned in gas turbines.

November 9, 2000 Technical Corrections

The 11/9/00 correction notice includes two clarifications to the 9/30/99 Subpart EEE Phase I Part II final rule and also three technical corrections.

The following bullets highlight the two clarifications to the 9/30/99 rule:

- The definition of the term “hazardous waste incinerator” at 40 *CFR* 63.1201(a) is amended to clarify that a hazardous waste incinerator includes all associated firing systems and air pollution control equipment, as well as the combustion chamber equipment.
- 40 *CFR* 63.1206(a)(3) is amended. This section generally requires that sources that commence construction or reconstruction after April 19, 1996 must comply with the maximum achievable control technology (MACT) standards by the later of 9/30/99 or the date the source starts operations. The amended language clarifies that the costs associated with meeting the MACT standards are not considered to be reconstruction costs.

The following bullets highlight the three technical corrections made by the 11/9/00 rule:

- The 9/30/99 final rule requires periodic comprehensive performance testing. 40 *CFR* 63.1207(d)(1) is amended to clarify that sources which submitted data in lieu of the initial performance test must commence the subsequent performance test within 61 months of commencing the test used to provide the data in lieu of the initial performance test.
- 40 *CFR* 63.1207(e)(1,2) are amended to clarify that the continuous monitoring system (CMS) evaluation test plan must be submitted at least one year before the performance test and performance evaluation are scheduled to begin. The 9/30/99 rule had inadvertently called for an evaluation plan to be submitted. The evaluation plan implements the CMS quality control program and must be kept on record for the life of the source. The evaluation plan must be made available for inspection upon request, but does not need to be submitted to the permitting agency.
- 40 *CFR* 63.1209(a)(6)(i) and 63.1209(b)(5)(i) are amended to state that sources that comply with the CEM requirements before the regulatory compliance date must simply record CEM and CMS rolling averages. The requirement for one-minute, hourly rolling, and 12-hour rolling averages only begins on the regulatory compliance date or, for sources which voluntarily choose to comply prior to the regulatory compliance date, when compliance begins.